

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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REVISION NOTE 1:

Document #9367, effective 1-28-09, readopted with amendments and redesignated the former Chapter Env-Wm 1000 as Env-Hw 1000. Former Part Env-Wm 1004 on used oil collection centers, filed under Document #6385-B, effective 11-26-96, had expired 11-16-04, and was not included in Document #9367. The redesignation from subtitle Env-Wm to Env-Hw was done pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05. Document #9367 replaces all prior filings for hazardous waste rules formerly in Chapter Env-Wm 1000. The numerals of the rules remained unchanged, and the source note information for the rules under Document #9367 refer to those same numbers under the subtitle Env-Wm.

REVISION NOTE 2:

Document #12352, effective 8-14-17, adopted, readopted with amendments, or repealed all of the rules in Chapter Env-Hw 1000. Document #12352 replaced all prior filings for hazardous waste rules formerly in Chapter Env-Hw 1000.

Document #12352 made extensive changes to the existing rules in the former Part Env-Hw 1003. These changes included the readoption with amendments and renumbering of the former Env-Hw 1003.02 titled "Expenditures" as Env-Hw 1003.02 titled "Definitions" and Env-Hw 1003.03 titled "Eligible Applicants; Match Required". Document #12352 also repealed Env-Hw 1003.06 titled "Matching Money Requirements", Env-Hw 1003.07 titled "Educational Component", and Env-Hw 1003.10 titled "School Wastes." Document #12352 also adopted Env-Hw 1003.08 titled "Calculation of Grant Awards" and Env-Hw 1003.10 titled "Disbursement of Grants." The former rule numbers of the existing rules in Env-Hw 1003 that were readopted with amendments are indicated in the source notes.

The filings for the former rules Env-Hw 1003.02, Env-Hw 1003.06, and Env-Hw 1003.07 prior to Document #12352 included the following documents:

#5053, eff 1-24-91

#5886, eff 8-26-94

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#7333, eff 8-1-00
#9215, INTERIM, eff 8-1-08
#9367, eff 1-28-09

The filings for the former rule Env-Hw 1003.10 prior to Document #12352 included the following documents:

#5053, eff 1-24-91
#5886, eff 8-26-94
#6384-B, eff 11-26-96
#7208, eff 2-26-00
#7333, eff 8-1-00
#9215, INTERIM, eff 8-1-08
#9367, eff 1-28-09

See the Revision Note 1, above, explaining the history of the former rules under the subtitle Env-Wm prior to Document #9367, effective 1-28-09. The existing rules in Env-Hw 1000 that were last affected by Document #9367 did not expire on 1-28-17 but were extended pursuant to RSA 541-A:14-a until replaced by the rules in Document #12352, effective 8-14-17.

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CHAPTER Env-Hw 1000 HAZARDOUS WASTE CLEANUP FUND

Statutory Authority: RSA 147-B:7

PART Env-Hw 1001 APPLICABILITY

Env-Hw 1001.01 Applicability. This chapter shall govern the expenditure of money from the hazardous waste cleanup fund (HWC Fund) for the following purposes:

- (a) To respond to the discharge of hazardous waste;
- (b) To develop a state hazardous waste facility siting program; and
- (c) To encourage and facilitate the implementation of household hazardous waste (HHW) collection projects, as described herein.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INTERIM [INT], eff 8-1-08; (See Revision Note 1 [RN1] at p. i) ss by #9367, eff 1-28-09; ss by #12352, eff 8-14-17

PART Env-Hw 1002 FUND ADMINISTRATION

Env-Hw 1002.01 Fund Administration.

- (a) Fees required by law to be deposited in the HWC Fund shall be deposited with the Treasurer, State of New Hampshire as specified in RSA 147-B:3.
- (b) Expenditures of HWC Fund monies by the department shall be accounted for as specified in RSA 147-B:6, I-a through I-g.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6385-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. i) ss by #9367, eff 1-28-09; ss by #12352, eff 8-14-17

PART Env-Hw 1003 HOUSEHOLD HAZARDOUS WASTE COLLECTION PROJECTS

Env-Hw 1003.01 Purpose and Applicability.

- (a) The purpose of this part is to implement RSA 147-B:6, I-a, which authorizes use of the HWC Fund to support HHW collection projects.
- (b) This part shall apply to HHW collection projects as defined in Env-Hw 103 and as limited by Env-Hw 401.03(b)(2) and Env-Hw 501.01(b).

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. i) ss by #9367, eff 1-28-09; ss by #12352, eff 8-14-17 (See Revision Note 2 [RN2] at pp. i-ii)

Env-Hw 1003.02 Definitions.

- (a) “Approved local or regional entity” means a legal entity, such as a town conservation commission, solid waste management district, regional planning council or commission, or non-profit organization, that has been authorized by a municipality to coordinate the municipality’s participation in one or more HHW collection projects.
- (b) “Collection event” means:
 - (1) For any HHW collection project that does not use a permanent HHW collection facility, the date on which and times during which the public may bring HHW to be collected; or

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(2) For any HHW collection project that does use a permanent HHW collection facility, any day and times during which the public may bring HHW to the facility.

(c) “Permanent HHW collection facility” means a structure, or portion thereof, in which collected HHW can be secured against unauthorized access and that is used for HHW collection projects.

(d) “Type I project” means a HHW collection project consisting of one HHW collection event per calendar year that serves one municipality.

(e) “Type II project” means a HHW collection project consisting of:

- (1) More than one HHW collection event per calendar year;
- (2) One collection event that serves more than one municipality; or
- (3) A combination of (1) and (2), above.

(f) “Type III project” means a HHW collection project that:

- (1) Uses a permanent HHW facility to store partially-filled drums and containers between collection events; and
- (2) Uses a third-party vendor such as a hazardous waste transporter for all of its collection events.

(g) “Type IV project” means a HHW collection project that:

- (1) Uses a permanent HHW facility to store partially filled drums and containers between collection events; and
- (2) Actively collects and stores HHW in the absence of a third-party vendor such as a hazardous waste transporter for one or more, but not all, of its collection events.

Source. (See RN1 and RN2 at pp. i-ii) #12352, eff 8-14-17

Env-Hw 1003.03 Eligible Applicants; Match Required.

(a) Municipalities and approved local or regional entities shall be eligible to apply for HWC Fund monies for HHW collection projects.

(b) A municipality may participate in multiple HHW collection projects, however a municipality’s population shall be counted toward only one grant application per year for purposes of calculating grant awards pursuant to Env-Hw 1003.08.

(c) As required by RSA 147-B:6, I-a, recipients shall provide matching funds, on a dollar-for-dollar basis, equal to the total amount of HWC Fund monies received.

Source. (See RN1 and RN2 at pp. i-ii) #12352, eff 8-14-17

Env-Hw 1003.04 Purposes of Funding. Monies from the HWC Fund shall be used for the costs of disposal, supplies, contracted hazardous waste transportation, expenses associated with conducting the project’s educational component, or any combination thereof.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. i) ss by #9367, eff 1-28-09; ss by #12352, eff 8-24-17 (See RN2 at pp. i-ii)

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Env-Hw 1003.05 Application Requirements.

(a) A municipality or approved local or regional entity seeking HWC Fund monies for a HHW collection project shall submit a completed application between October 1 and February 1 prior to the fiscal year in which the project is planned to occur.

(b) An applicant shall submit the following on or with a “HHW Grant Application” form obtained from the department:

- (1) The applicant’s name and mailing address;
 - (2) The date of the application;
 - (3) If the applicant is an approved local or regional entity, the name and population of each municipality the applicant is representing;
 - (4) The name, title, daytime telephone number, and, if available, a fax number and email address for:
 - a. Each individual who will be a primary contact or secondary contact for the grant; and
 - b. The individual who will be the liaison to the public for the project;
 - (5) The proposed location, date, and time of each project for which funding is sought;
 - (6) If the project includes multiple collection sites, whether any of the sites have:
 - a. Any restrictions on who can use the site; or
 - b. Any limits on the amount of waste the project will accept;
 - (7) Whether the project will accept HHW from residents of non-participating municipalities, at the residents’ own expense;
 - (8) Whether the project will accept hazardous waste from small businesses, schools, municipal departments, or other small quantity generators, at their own expense;
 - (9) For each project for which funding is sought, the following:
 - a. An estimate of costs and revenues, including all costs identified in Env-Hw 1003.04;
 - b. The amount being requested from the HWC Fund; and
 - c. Sources and amounts of the required match;
 - (10) A general description of the project, including:
 - a. How the applicant will allocate awarded funds;
 - b. How the applicant will fulfill the dollar-for-dollar match requirements of RSA 147-B:6, I-a; and
 - c. How and when the applicant will fulfill the public education requirements of RSA 147-B:6, I-a, including educating the public about the potential dangers and proper disposal of HHW as well as ways to reduce its generation;
 - (11) Documentation demonstrating that the individual submitting the application is duly authorized to apply for fund monies, sign an agreement with the department, and expend funds for the project on behalf of the applicant; and
 - (12) A statement certifying, as specified in Env-Hw 207, the information submitted.
- (c) The application shall be signed and dated by the individual identified pursuant to (b)(11), above.

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(d) The department shall make available:

- (1) Guidance for completing the application and for planning and hosting a HHW collection project;
- (2) A suggested warrant article for allocating matching funds;
- (3) An example of documentation demonstrating authority to apply for the grant, as specified in (b)(11), above; and
- (4) Examples of press releases, fliers, advertisements, and other educational materials to facilitate the required educational component.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08, EXPIRES: 1-28-09; (See RN1 at p. i) ss by #9367, eff 1-28-09; amd by #10205, eff 10-19-12; ss by #12352, eff 8-14-17 (See RN2 at pp. i-ii)

Env-Hw 1003.06 Application Processing and Decision.

(a) The department shall review each application for HWC Fund monies for HHW collection projects to determine whether it contains all the information and documents required by Env-Hw 1003.05.

(b) If the application does not contain all information and documents required by Env-Hw 1003.05, the department shall notify the applicant of what is missing.

(c) The department shall approve an application if it contains all of the information and documents required by Env-Hw 1003.05.

(d) If an application is approved, the applicant shall be eligible to receive HWCF monies in the form of a grant award.

(e) Grants shall be awarded and disbursed as specified in Env-Hw 1003.07 through Env-Hw 1003.10.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. i) ss by #9367, eff 1-28-09; ss by #12352, eff 8-14-17 (formerly Env-Hw 1003.03) (See RN2 at pp. i-ii)

Env-Hw 1003.07 Basis of Department Allocation and Award Decisions.

(a) In fulfilling its HWCF administrative responsibilities, the department shall base its recommendation to the governor on the amount of fund money to make available for HHW collection projects on the following considerations:

- (1) The total amount of money available in the HWC Fund; and
- (2) Present and anticipated needs for spending HWC Fund money for site cleanup operations and emergency response actions.

(b) In determining how much HWC Fund money to allocate to each applicant in a fiscal year, the department shall allocate funds in the following order of priority:

- (1) Type IV projects;
- (2) Type III projects;
- (3) Type II projects; and

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- (4) Type I projects.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. i) ss by #9367, eff 1-28-09; ss by #12352, eff 8-14-17 (formerly Env-Hw 1003.09) (See RN2 at pp. i-ii)

Env-Hw 1003.08 Calculation of Grant Awards.

- (a) The following definitions shall apply to the calculation of grant awards:

- (1) "Base rate" means the grant funding rate, in dollars per person;
- (2) "M_I" means a funding multiplier of 1.00 applicable to Type I projects;
- (3) "M_{II}" means a funding multiplier of 1.25 applicable to Type II projects;
- (4) "M_{III}" means a funding multiplier of 1.75 applicable to Type III projects;
- (5) "M_{IV}" means a funding multiplier of 2.00 applicable to Type IV projects;
- (6) "P_I" means the population to be served by all Type I projects in a given fiscal year;
- (7) "P_{II}" means the population to be served by all Type II projects in a given fiscal year;
- (8) "P_{III}" means the population to be served by all Type III projects in a given fiscal year;
- (9) "P_{IV}" means the population to be served by all Type IV projects in a given fiscal year; and
- (10) "Total grant funds available" means the amount of fund money made available for HHW collection projects in accordance with Env-Hw 1003.07(a).

(b) Each year the department shall determine the values for P_I, P_{II}, P_{III}, and P_{IV}, based on the applications approved for funding in accordance with Env-Hw 1003.06.

(c) Each year, the department shall calculate the base rate by dividing the total grant funds available by the sum of all of the following, as expressed in the formula below:

- (1) M_I multiplied by P_I;
- (2) M_{II} multiplied by P_{II};
- (3) M_{III} multiplied by P_{III}; and
- (4) M_{IV} multiplied by P_{IV}.

$$\text{Base Rate} = \text{Total Grant Funds Available} / ((M_I \times P_I) + (M_{II} \times P_{II}) + (M_{III} \times P_{III}) + (M_{IV} \times P_{IV}))$$

(d) The amount of a grant award for a specific HHW collection project shall be calculated by multiplying together all of the following:

- (1) The "base rate" as determined pursuant to (c), above;
- (2) The funding multiplier that corresponds to the project type, as specified in (a)(2) - (5), above; and
- (3) The population to be served by the project.

Source. #12352, eff 8-14-17 (See RN2 at pp. i-ii)

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Env-Hw 1003.09 Agreement with the Department.

(a) To receive HWC Fund monies for a HHW collection project, the applicant shall enter into a written agreement with the department.

(b) The applicant shall administer the project in accordance with the terms and conditions set forth in the agreement, which shall specify:

- (1) For each collection event covered by the grant, the location, date, and time of the event;
- (2) The amount and source of the financial match for the grant;
- (3) The details of the public education program that will be undertaken; and
- (4) The amount of HWC Fund monies, calculated in accordance with Env-Hw 1003.08, to be awarded to the applicant upon completion of the project and submittal of the documentation required by Env-Hw 1003.10.

(c) If the project will include more than one municipality, the applicant shall submit a letter of commitment from each participating municipality before approvals can be granted as specified in (d), below.

(d) The agreement shall be approved and signed by the applicant and by the commissioner or designee. The agreement shall also be subject to approval by the governor and council and the New Hampshire department of justice, office of the attorney general, as applicable.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. i) ss by #9367, eff 1-28-09; ss by #12352, eff 8-14-17 (formerly Env-Hw 1003.08) (See RN2 at pp. i-ii)

Env-Hw 1003.10 Disbursement of Grants.

(a) No later than 90 days after completion of the HHW collection project, the grant recipient shall submit all of the following to the department:

- (1) A letter, signed by the recipient's duly authorized representative:
 - a. Requesting disbursement of grant monies as specified in the agreement entered into pursuant to Env-Hw 1003.09(a); and
 - b. Certifying, as specified in Env-Hw 207, the information submitted;
- (2) Detailed cost and revenue information for the project, including:
 - a. All sources and amounts of revenue received in connection with the project; and
 - b. All costs incurred to conduct the project, including those related to public education and advertising;
- (3) Copies of invoices and itemized receipts from the following, as applicable:
 - a. Hazardous waste transporters;
 - b. Universal waste transporters;
 - c. Support services, such as police; and
 - d. Vendors used for public education and outreach;
- (4) Copies of the required educational and outreach materials;
- (5) Copies of completed hazardous waste manifests associated with the disposal of HHW collected by the project;

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(6) A completed HHW collection report form obtained from the department, that provides the following information for the collection event(s) covered by the grant:

- a. Grant recipient's name;
- b. The name, telephone number, fax number, and if available, email address of the contact person for the grant if different from the person or persons specified in Env-Hw 1003.05(b)(3);
- c. A list of all municipalities that participated in the collection event(s);
- d. The locations and dates of the collection event(s);
- e. The name, contact person, telephone number, and email address of the hazardous waste transporter for the event(s), as applicable;
- f. The number of households that participated in the event(s);
- g. The amounts of ignitable, reactive, toxic, and corrosive wastes collected and the total amount collected;
- h. The total disposal cost;
- i. A description of how each event was advertised, including newspaper, television, or radio advertisements;
- j. A description of the outreach conducted for each event; and
- k. A description of any positive or negative experiences, if the grant recipient chooses to provide such information; and

(7) Tabulated participant survey results, if any, including the questions asked and responses provided.

(b) If the grant recipient complies with (a), above, the department shall disburse the grant monies to the recipient.

(c) If the recipient submits a request that does not include all of the information required by (a), above, the department shall notify the applicant of each deficiency.

(d) If the recipient wishes to receive the grant monies, the recipient shall correct all deficiencies no later than 30 days from receipt of the notice provided pursuant to (c), above.

(e) If the recipient does not correct all deficiencies within 30 days, the department shall not award any grant monies to the recipient.

Source. #12352, eff 8-14-17 (See RN2 at pp. i-ii)

APPENDIX A: STATE STATUTES, FEDERAL REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s)	Federal Regulation(s)
Env-Hw 1000	RSA 147-B:6; RSA 147-B:7; RSA 147-B:13	

APPENDIX B: INCORPORATION BY REFERENCE INFORMATION
[NONE IN THIS CHAPTER]

APPENDIX C: STATE STATUTORY DEFINITIONS

RSA 147-A:2

III. "Disposal" means the discharge, deposit, incineration, injection, dumping, spilling, leaking or placing of any waste into or onto any land or water so that the waste or any constituent of the waste may enter the environment, be emitted into the air, or be discharged into any waters, including groundwaters.

IV. "Facility" means a location at which hazardous waste is subjected to treatment, storage or disposal and may include a facility where hazardous waste has been generated.

VI. "Generator" means any person who owns or operates a facility where hazardous waste is generated.

VII. "Hazardous waste" means a solid, semi-solid, liquid or contained gaseous waste, or any combination of these wastes:

(a) Which, because of either quantity, concentration, or physical, chemical, or infectious characteristics may:

(1) Cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness; or

(2) Pose a present or potential threat to human health or the environment when improperly treated, stored, transported, disposed of or otherwise mismanaged.

(b) Or which has been identified as a hazardous waste by the department using the criteria established under RSA 147-A:3, I or as listed under RSA 147-A:3, II. Such wastes include, but are not limited to, those which are reactive, toxic, corrosive, ignitable, irritants, strong sensitizers or which generate pressure through decomposition, heat or other means. Such wastes do not include radioactive substances that are regulated by the Atomic Energy Act of 1954, as amended, or household pharmaceutical wastes collected pursuant to RSA 318-E.

VIII. "Hazardous waste management" means the systematic control of the generation, collection, sorting, storage, processing, treatment, recovery and disposal of hazardous waste.

X. "Manifest" means the form used for identifying the origin, quantity, composition, routing and destination of hazardous waste.

XI. "Operator" means any person who, either directly or indirectly, operates or otherwise controls or directs activities at a facility.

XI-a. "Owner" means any person who, either directly or indirectly owns a facility. The term "owner" does not include a person who, without participation in the management or actual operation of a facility, holds indicia of ownership primarily to protect a mortgage on real property on which a facility is located or a security interest in personal property located at the facility.

XII. "Person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, United States government or any agency thereof, political subdivision of the state, or any interstate body.

XII-a. "Spent material" means any material that has been used and, as a result of contamination, can no longer serve the purpose for which it was produced without processing.

XIII. "Storage" means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of the hazardous wastes.

XIV. "Trade secret" means any confidential formula, pattern, device or compilation of information which is used in the employer's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. A trade secret is known to the employer and those employees to whom it is necessary to confide it.

XV. "Transport" means the movement of hazardous wastes from the point of generation to any intermediate points and, finally, to the point of ultimate storage or disposal.

XVI. "Transporter" means any person who transports hazardous waste.

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XVII. "Treatment" means any process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize the waste or to render the waste not hazardous, safer for transport, amenable to recovery, amenable to storage or reduced in volume.

XVIII. "Waste" means any matter consisting of: garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other spent, discarded or abandoned material including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include domestic sewage, irrigation return waters, wastewater discharges in compliance with applicable state or federal permits, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

RSA 147-B:2

III. "Facility" means any site, area or location where hazardous waste or hazardous materials are or have been treated, stored, generated, disposed of, or otherwise come to be located.

APPENDIX D: FEDERAL DEFINITIONS AND REGULATIONS

40 CFR 260.10

Act or *RCRA* means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. section 6901 *et seq.*

Administrator means the Administrator of the Environmental Protection Agency, or his designee.

Aquifer means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

Authorized representative means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.

Battery means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

Boiler means an enclosed device using controlled flame combustion and having the following characteristics:

(1)(i) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(ii) The unit's combustion chamber and primary energy recovery sections(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

(iii) While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(iv) The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

(2) The unit is one which the Regional Administrator has determined, on a case-by-case basis, to be a boiler, after considering the standards in § 260.32.

Certification means a statement of professional opinion based upon knowledge and belief.

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Confined aquifer means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined ground water.

Container means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

Containment building means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of subpart DD of parts 264 or 265 of this chapter.

Contingency plan means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

Dike means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

Drip pad is an engineered structure consisting of a curbed, free-draining base, constructed of non-earth materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

Explosives or munitions emergency means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

Explosives or munitions emergency response means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in place render-safe procedures, treatment or destruction of the explosives or munitions and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

Explosives or munitions emergency response specialist means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other Federal, State, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

Free liquids means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

Ground water means water below the land surface in a zone of saturation.

Incompatible waste means a hazardous waste which is unsuitable for:

(1) Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

(2) Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

(See appendix V of parts 264 and 265 of this chapter for examples.)

Injection well means a well into which fluids are injected. (See also “underground injection”.)

Inner liner means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

International shipment means the transportation of hazardous waste into or out of the jurisdiction of the United States.

Lamp, also referred to as “universal waste lamp”, is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

Land treatment facility means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

Leachate means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

Liner means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

Military munitions means all ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include non-nuclear components of nuclear devices, managed under DOE’s nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

Mining overburden returned to the mine site means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

On-site means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, is also considered on-site property.

Pesticide means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

- (1) Is a new animal drug under FFDCFA section 201(w), or
- (2) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or
- (3) Is an animal feed under FFDCFA section 201(x) that bears or contains any substances described by paragraph (1) or (2) of this definition.

Pile means any non-containerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage and that is not a containment building.

Point source means any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

Representative sample means a sample of a universe or whole (e.g., waste pile, lagoon, ground water) which can be expected to exhibit the average properties of the universe or whole.

Run-off means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

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Run-on means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

Sludge means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Surface impoundment or *impoundment* means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

Tank means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

Tank system means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

Totally enclosed treatment facility means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

Transport vehicle means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

Transportation means the movement of hazardous waste by air, rail, highway, or water.

Treatability Study means a study in which a hazardous waste is subjected to a treatment process to determine: (1) Whether the waste is amenable to the treatment process, (2) what pretreatment (if any) is required, (3) the optimal process conditions needed to achieve the desired treatment, (4) the efficiency of a treatment process for a specific waste or wastes, or (5) the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of the § 261.4 (e) and (f) exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A “treatability study” is not a means to commercially treat or dispose of hazardous waste.

United States means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Universal Waste Transporter means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

Vessel includes every description of watercraft, used or capable of being used as a means of transportation on the water.

Wipe means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

40 CFR 261.1(c)(3)

A “by-product” is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public’s use and is ordinarily used in the form it is produced by the process.

40 CFR 261.1(c)(6)

“Scrap metal” is bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

40 CFR 261.1(c)(9)

“Excluded scrap metal” is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

40 CFR 261.1(c)(10)

“Processed scrap metal” is scrap metal which has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and, fines, drosses and related materials which have been agglomerated. (Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (§ 261.4(a)(14)).

40 CFR 261.1(c)(11)

“Home scrap metal” is scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

40 CFR 261.1(c)(12)

“Prompt scrap metal” is scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

40 CFR 261.4(a)(1)(ii)

“Domestic Sewage” means untreated sanitary wastes that pass through a sewer system.

40 CFR 262.51

Consignee means the ultimate treatment, storage or disposal facility in a receiving country to which the hazardous waste will be sent.

EPA Acknowledgement of Consent means the cable sent to EPA from the U.S. Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country’s consent to the shipment.

40 CFR 268.2(c)

Land disposal means placement in or on the land, except in a corrective action management unit or staging pile, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault, or bunker intended for disposal purposes.

40 CFR 270.2

Site means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

40 CFR 273.2(c)(2)

An unused battery becomes a waste on the date the handler decides to discard it.

40 CFR 273.3(c)(1)

A recalled pesticide described in paragraph (a)(1) of this section becomes a waste on the first date on which both of the following conditions apply:

- (i) The generator of the recalled pesticide agrees to participate in the recall; and
- (ii) The person conducting the recall decides to discard (e.g., burn the pesticide for energy recovery).

40 CFR 273.3(c)(2)

An unused pesticide product described in paragraph (a)(2) of this section becomes a waste on the date the generator decides to discard it.

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40 CFR 273.4(c)(2)

Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

40 CFR 273.5(c)(2)

An unused lamp becomes a waste on the date the handler decides to discard it.

40 CFR 273.33(c)(2)

A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

- (i) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;
- (ii) Removes the ampules only over or in a containment device (*e.g.*, tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);
- (iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules from that containment device to a container that meets the requirements of 40 CFR 262.34;
- (iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR 262.34;
- (v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- (vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
- (vii) Stores removed ampules in closed, non-leaking containers that are in good condition;
- (viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

APPENDIX E: EMERGENCY TELEPHONE NUMBERS

Organization	Telephone Number	Days/Hours
DES Emergency Response Team	(603) 271-3899	Monday through Friday; 8 a.m. to 4 p.m.
N.H. State Police Headquarters Communications Unit	(603) 223-4381	Every day; 24 hours per day